

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

James Covington, *on behalf of himself and all others similarly situated,*

Plaintiff,

-v-

Childtime Childcare, Inc. and Learning Care Group, Inc.,

Defendants.

Civil Action No. 1:23-cv-710 (GLS/ATB)

**MOTION TO AMEND AND CERTIFY THE JUNE 10, 2024 ORDER, AS IT RELATES TO PLAINTIFF'S PAY FREQUENCY CLAIM UNDER NYLL § 191, FOR INTERLOCUTORY APPEAL**

Pursuant to 28 U.S.C. § 1292(b) and Federal Rule of Appellate Procedure 5(a)(3), Defendants Childtime Childcare, Inc. and Learning Care Group, Inc. (collectively “Defendants”), by and through the undersigned counsel, will move this Court, at a date and time to be determined by the Court, before The Honorable Brenda K. Sannes, United States District Judge, in the United States District Court for the Northern District of New York, to amend its June 10, 2024 Order (Dkt. 28) so as to certify that Order for immediate interlocutory appeal. Defendants will further move the Court to stay proceedings in this matter pending that interlocutory appeal’s disposition pursuant to Fed. R. App. P. 8(a)(1). Such motion is made upon the accompanying Memorandum of Law in Support of Defendants Motion to Amend and Certify the June 10, 2024 Order, As it relates to Plaintiff’s Pay Frequency Claim Under NYLL § 191, for Interlocutory Appeal, and also upon all the pleadings and proceedings herein (including, but not limited to) Defendants’ Notice of Motion to Dismiss (Dkt. 12), and documents related thereto, Defendants’ Reply Memorandum of Law in Support of its Motion to Dismiss (Dkt. 19), and Defendants’ Supplemental Authority in Support of Its Motion to Dismiss (Dkts. 20, 27).

As outlined in the accompanying memorandum, the Court's June 10, 2024 decision is certifiable because it involves a controlling question of law as to which there are substantial grounds for difference of opinion, and an immediate appeal will materially advance the ultimate termination of this litigation.

**WHEREFORE**, Defendants respectfully request that this Court grant their motion and issue an order certifying for interlocutory appeal its decision pursuant to 28 U.S.C. § 1292(b).

Dated: June 20, 2024  
New York, New York

LITTLER MENDELSON, P.C.

By:/s/ Kelly M. Cardin

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Kelly M. Cardin, Bar No. 4991758  
kcardin@littler.com  
900 Third Avenue  
New York, NY 10022-3298  
Telephone: 212.583.9600  
Facsimile: 212.832.2719

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on June 20, 2024 I served, via the Court's electronic filing system, true and correct copies of Defendants' Notice of Motion to Amend and Certify the June 10, 2024 Order, as it relates to Plaintiff's Pay Frequency Claim Under NYLL § 191, for Interlocutory Appeal, and Defendants' Memorandum of Law in Support of their Motion to Amend and Certify the June 10, 2024 Order, as it relates to Plaintiff's Pay Frequency Claim Under NYLL § 191, for Interlocutory Appeal, upon all parties registered to receive electronic notice.

*/s/Kelly M. Cardin*

Kelly M. Cardin